

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1099 of 2004

Between:

M/s Annam Bapa Rao, rep by its Proprietor Mr. Annam Purnachandra Kumar, 4-9-16, Tirumala Rao Street, Hanumapet, Vijayawada-520 003

..... PETITIONER

AND

- 1 The Commercial Tax Officer, Governorpet Circle, Vijayawada
- 2 The Deputy Commissioner (CT) No.II, Vijayawada Division, Vijayawada

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus to declare the collection of Cheque Nos.437703, 437704, 446832 and 446881 for Rs.2,00,000/-, Rs1,88,954/-, Rs.60,000/- and Rs.10,000/- respectively drawn on Global Trust Bank, Vijayawada towards tax and compounding fees respectively by the 1st respondent from the petitioner as illegal, arbitrary, high handed, without jurisdiction and in violation of Article 265 of constitution of India and consequently direct him to return the cheques referred above to the petitioner.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY.

Counsel for the Respondents : GP FOR COMMERCIAL TAXES.

The Court made the following :

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ORDER : (Per Sri Bilal Nazki, J).

Heard learned Counsel for the parties.

This is a case relating to inspection and subsequent collection of tax. We have gone through the record. Before the collection of tax and creating a demand, no order of assessment had been passed. Obviously without an assessment, the demand could not have been created. The question has already been decided in Writ Petition No.494 of 2004. Following the same judgment, we allow the Writ Petition, set aside the orders of collection and demand. In the meantime, it is submitted by the learned Counsel for petitioner that now an order of assessment was passed on 02.07.2004. He is at liberty to take any steps available to him in law to get the order set aside, if he is aggrieved of it.

Writ Petition is accordingly allowed. No costs.

(BILAL NAZKI, J)

28th July, 2004.

(S.ANANDA REDDY, J)

ajr.

To

- 1 The Commercial Tax Officer, Governorpet Circle, Vijayawada
- 2 The Deputy Commissioner (CT) No.II, Vijayawada Division, Vijayawada
- 3 Two C.Cs. to the G.P. for Commercial Taxes, High Court buildings,
Hyderabad (O.U.T.)
- 4 Two C.D. copies.